IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION.

CHAMBER SUMMONS No. 716 of 2006.

IN

SUMMARY SUIT No.3296 of 1996.

Mr.Mohinder Singh Randhawa. ..Plaintiff.

Versus.

Hindustan Petroleum Corpn.Ltd. ..Defendant.

Mr. N. R. Modi, i/b. Rustamji Ginwala & Co.
for defendant/applicant.

Mr. S. B. Sharma for plaintiff.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 26th JUNE,2006.

P.C.:-

1] In Summary Suit No.3296 of 1996 on Summons for Judgment was taken out and a reply was filed by the defendant Corporation thereto. After perusing the said reply and hearing both sides, this Court granted unconditional leave to the defendant to defend the above suit.

2] Thereafter, the suit was transferred to the list of Commercial Causes and is pending disposal. The defendant was to file a written statement within 12 weeks which was not filed and that is how the present Chamber Summons is taken out for condonation of delay of about 74 months in filing the written statement.

3] The application for condonation of delay

was taken out because the plaintiff has moved a Notice of Motion in this Court. Praying that the said matter be listed for exparte hearing as there is no written statement on record.

4] After hearing Mr. Modi appearing for the defendant in support of this Chamber Summons, as also Mr. Sharma appearing for original plaintiff and perusing the reply to the Chamber Summons, I am of the view that sufficient cause is made out for condoning the delay in filing written statement. It is not disputed that the version of the defendants on merits was already placed on record when the summons for judgment was contested. All that was not done by the then Advocate is drawing written statement in terms thereof and file the same. According to the Corporation that Advocate committed a lapse in doing so. The written statement so filed after the delay was taken on record but now office objections are raised.

5] In my view, the reasons for delay do not appear to be lacking in bona fides. Plaintiff can be compensated by directing the defendants to pay costs. Hence the following order;

ORDER.

[1] Chamber Summons is allowed in terms of prayer clause (a) and (b) on condition of defendants paying to the plaintiff or his Advocate costs quantified at Rs. 5,000/-.

[2] Costs condition precedent.

[3] Upon proof of the costs being tendered written statement will be taken on record and thereafter the suit shall proceed in accordance with law.

[4] In the light of this order Notice of Motion No.863 of 2005 does not survive and is disposed of accordingly.

[5] Parties shall act upon the authenticated copy to be supplied by the Private Secretary.

(S.C.DHARMADHIKARI,J.)